

10/27/14: Associate Editor Posts

Eminent Domain and the idea of "Blight" in Brooklyn (Williamsburg): Displacing Low-Income Minorities with Affluent, Young, White Professionals..

By Jay Stephens

New York City is currently experiencing its biggest housing boom in decades. The nationwide economic recession which occurred only a few years ago, which brought the housing market to record lows, seems to be a thing of the past as hundreds of developers from all over the world are vying for prime New York City real estate, at lofty prices, to construct new upscale residential buildings. These residential buildings, ranging from two to three story luxury lowrisers to pent house style units soaring hundreds of feet above ground, offer elaborate amenities and panoramic views of the Manhattan skyline. As Manhattan continues to develop, empty parking lots and other deserted land has become limited, and developers have resorted to receiving special permits from the city to purchase buildings aging over one hundred years old in order to demolish them to make way for these residential buildings.

These buildings have not only housed historic businesses first started generations ago as family businesses, but they also include affordable housing units built for low to middle income residents. In New York City's largest borough, Brooklyn, developers have flooded into these culturally established neighborhoods, displacing residents who have called these places their home for decades. The neighborhood of Williamsburg has been one of the most affected by gentrification. Whites increased their number in what the Planning Department refers to as Williamsburg-North Side/South Side by 10,245 and their share of the population from 34% to 52%. The Latino population declined in this neighborhood by almost 25% (from a population share in 2000 of 57% -- 22,923 people -- to just under 38% in 2010 (17,268). Whites also increase their presence in Williamsburg (5,041) and East Williamsburg (4,444). Overall, Brooklyn's population grew by 39,000 people. The White population grew by 38,774 while the Asian population increased by 75,838. Blacks lost almost 50,000 people (-49,517).

There are several questions to be answered by this: (1) Do minorities still lack a voice within their communities? (2) Is there a lack of Due process in the government confiscating property for real estate investors through eminent domain? (3) Does the situation of gentrification and displacement of low and moderate income individuals show preference toward keeping the wealthy satisfied? (4) What advantages, if any, does this new issue present to the local government in these municipality?

The New Jersey Thorough and Efficient Clause

By Tori Bell

Ever since *Brown v. Board of Education*, the states and courts have been struggling with what is "equal education" and what actions states need to take in order to provide this. The concept of what equal education is changes between States because education is not a "right" in our United States Constitution. What is required in order to provide an equal education depends on whether or not States put education as a right in their constitutions. The battle does not end by putting education as a right in the constitution, it depends on the state courts and how they interpret the right and instruct the legislatures and people on what tools guarantee that right. New Jersey in 1875 created the Thorough and Efficient Clause in the New Jersey Constitution. The problem with the clause is that although it sounds great in theory, it has been hard to apply in practice. The courts have long battled with what is required to guarantee a "thorough and efficient" education.

The Thorough and Efficient Clause lays out what is required by the Legislature. The clause requires that the Legislature provide the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years. Looking at the clause on its face is not very clear. What exactly makes a thorough and efficient system of free public schools? Is it increasing graduation rates or guaranteeing poor children get the same education as their rich counterparts.

Two cases, *Abbott v. Burke* (790 A.2d 842) and *Robinson v. Cahill* (355 A.2d 129), examined the Thorough and Efficient clause and interpreted it as utilizing equal finances in order to help create a thorough and efficient system of public schools. The instinct is to think that financing alone is not the solution to equal education. We all know from personal experience that throwing money at the problem never truly solves anything; it just masks it for a while. The courts also realized that finances alone were not going to

establish the thorough and efficient educational system that the State Constitution had in mind. The court in Robinson recognized that there are other factors besides equalizing finances. The problem is that the court recognizes what we all recognize, that is money is not the answer, but there are not a lot of decisions that gives us guidance to other ways to create this thorough and efficient system.

What interpretations of the Thorough and Efficient Clause do we need in order to battle our problem with the New Jersey Schools? Does the answer lie with requiring racial and economical quotas or with stricter teacher requirements? Is funding the only achievable thing that can help the schools? Do the programs we have in place like the Abbot Districts, No Child Left Behind and Inter-District School Choice Programs help further this idea of a thorough and efficient education? The answers lie in the future court interpretations of the clause and the statistics given for each of these programs.

When the Going Gets Tough, the Tough Get Going: The Case of Gang Recruits and Former Gang Members Seeking Asylum in the U.S.

By Melody Mendoza

At the heart of refugee law is the ideal that remedies such as asylum and withholding of removal are only for the helpless, men, women, and children who are persecuted in their countries on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, contrary to this principal, many victims of persecution have been denied protection because they do not fit squarely in the legal framework of asylum adjudication. Specifically, there are various reasons why former gang members and gang recruits are being denied asylum and withholding of removal in the United States. For instance, youth seeking safety within our borders after being targeted for gang recruitment frequently fail to meet the particularity and social distinction criteria of the particular social group analysis.

In response to this and many other obstacles, there are four distinct regulatory changes that can be made to the way in which claims by this class of refugees are adjudicated. First, social visibility and particularity should be stream lined into a single requirement. Second, there should be a regulation that defines gender as a sufficiently particular group to support a grant of asylum or withholding of removal. Further, this regulation should establish that violent gang recruitment of young men and boys occurs "on account of gender." Third, in light of the asylum bar for those who are found to have committed "a serious nonpolitical crime," the legislature should create a narrow exception to this bar in order to protect children who joined gangs in hopes of survival but have renounced the gang and now seek emancipation in the United States. Fourth, refusal to join a gang or permanent withdrawal from a gang should be considered a political opinion for asylum and withholding of removal purposes. These changes will provide more protection to well deserving refugees without opening the floodgates. Further, these revisions will serve to combat the rise of transnational gangs by serving as form of prevention for further gang expansion and rehabilitation of former gang members.

NJ's Mental Health Commitment Law Poses Civil Liberties Issues

By Joseph Leopardi

The topic of this article will be the potential civil liberties violations that the New Jersey Mental Health Commitment Law poses for mental health patients. This law, which was passed five years ago, grants New Jersey judges the authority to mandate potentially dangerous people into mental health treatment. Earlier this year, Governor Christie dedicated an additional \$4.5 million to expand the program into all 21 counties. Previously, only six of the state's counties ? Burlington, Essex, Hudson, Ocean, Warren and Union ? have offered the controversial program, which assigns patients to intensive case management to ensure they have housing, are seeking employment, and receiving necessary treatment. Patients who fail to comply and are deemed by their treatment team to be a danger to themselves or others can be ordered by a judge to be committed into a psychiatric hospital.

One of the major impetuses for the expansion of the program was the rash of mass shootings that occurred in the U.S. in 2012. There were no less than 16 mass shootings across the country that year, leaving at least 88 people dead, including 12 people who were shot to death while attending a midnight screening of *The Dark Knight Rises* and 26 people who were killed at the Sandy Hook Elementary shooting in Newtown, Connecticut. Following these tragedies, there was much public anxiety across the nation about violence from mentally unstable people. Proponents of the law say that incidents such as these could have been prevented if these people received the treatment they needed before committing such acts. The law has divided the mental health community. Mental

health professionals in Essex and Union counties have credited the program with helping to reduce violence, homelessness, arrests and hospitalizations, while opponents claim that the law violates patients' constitutional rights.

As someone who has worked as a counselor for people with severe mental illnesses, this is a subject matter that hits home for me. I've witnessed the dramatic changes in mood, personality, and behavior that can occur when patients stop taking their prescribed medications or withdraw from treatment for a lengthy time, as well as the propensity for violent outbursts. However, they are human beings first and foremost, and deserve the same rights as any other human being. Furthermore, considering that most of these shootings are perpetrated by individuals who do not have an extensive mental health history, we have to ask how efficacious a mental health commitment law would be in preventing such incidents.

In addition to examining the possible civil liberties violations, there are other issues related to the mental health commitment law, such as the stigma associated with mental illness diagnoses, the quality of care in NJ treatment facilities, recent psychiatric hospital closings in NJ, and overcrowding in the remaining NJ psychiatric hospitals and treatment programs. We should explore alternative approaches to improving mental health across the state, such as improved funding for mental health facilities and implementing more mental health courts. Such courts, which operate similar to drug courts, can be used as an alternative to incarceration for mentally ill people convicted of a crime to help reduce the percentage of mentally ill people in the prison system.